

Application No. 10/605,485
Docket No. A3-1657
Amendment dated July 19, 2004
Reply to Office Action of April 19, 2004

REMARKS

In the Office Action, the Examiner reviewed claims 1-20 of the above-identified US Patent Application, with the result that claims 1-9 were rejected under 35 USC §102 and claims 10-20 were rejected under 35 USC §103. In response, Applicants have amended the claims as set forth above. More particularly:

Independent claim 1 has been amended to expressly recite that the wheelchair braking device (10) is for a wheelchair (12) having a seat (26) and a wheel (32). Support for this amendment can be found in Applicants' Figure 1 and the corresponding discussion in Applicants' specification.

Independent claim 1 has been further amended to incorporate limitations of its dependent claims 5 and 6, namely, the sensing lever (14) comprises means (16,20) for engaging the seat (26) of the wheelchair (12), the engaging means (16,20) is adapted to rotate upward into engagement with the seat (26) when the sensing lever (14) is pivoted in the first rotational direction, and the interconnecting means (24) comprises a link (24) pivotably connected at a first end thereof to the sensing lever (14) and pivotably connected at a second end thereof to the braking means (22,40).

Dependent claim 5 has been amended in view of the incorporation of its limitation into its parent claim 1.

In view of its limitations being incorporated into claim 1, dependent claim 6 has been amended to recite that the device (10) further comprises means (35,37) for

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mounting the support structure (28) to the wheelchair (12). Support for this amendment can be found in Applicants' Figure 1 and the corresponding discussion in Applicants' specification.

Dependent claim 8 has been placed in independent form to incorporate all of the limitations of its parent claim 1 as well as the same limitation of claim 5 that was incorporated into independent claim 1.

Applicants believe that the above amendments do not present new matter. Favorable reconsideration and allowance of claims 1-20 are respectfully requested in view of the above amendments and the following remarks.

Rejections under 35 USC §102

Independent claim 1 and its dependent claims 2-4 and 6-9 were rejected under 35 USC §102(b) as being anticipated by U.S. Patent No. 5,036,485 to Sarro, and independent claim 1 and its dependent claims 2-5, 7 and 9 were rejected under 35 USC §102(b) as being anticipated by U.S. Patent No. 6,264,007 to Norton et al. (Norton).

As noted in §2131 of the MPEP:

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. The identical invention must be shown in as complete detail as is contained in the ...claim. The elements must be arranged as required by the claim, but this is not an ipsissimis verbis test, i.e. identity of terminology is not required. (Citations omitted).

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The Office Action does not explain the basis for the Examiner's conclusion that Sarro and Norton anticipate the rejected dependent claims, namely, the Office Action does not set forth which of the various elements disclosed by Sarro and Norton were deemed by the Examiner to correspond, expressly or inherently, to each and every element set forth in claims 2-9. Therefore, Applicants respectfully believe that grounds for rejecting claims 2-9 under 35 USC §102 have not been established. Nonetheless, Applicants have reviewed the references in an attempt to discern the basis for the rejections, and in doing so provide the following arguments.

Applicants' amended independent claim 1 has been amended to incorporate limitations from dependent claims 5 and 6, which were not rejected as being anticipated by Sarro and Norton, respectively. As such, Applicants believe that claim 1 and its dependent claims are allowable under the test for anticipation set forth at MPEP §2131.

Dependent claim 8 was rejected only in view of Norton. As noted above, claim 8 has been placed in independent form to include all of the limitations of its parent claim 1 as well as limitations from dependent claim 5, which was not rejected as being anticipated by Norton. As such, Applicants believe that claim 8 is allowable under the test for anticipation set forth at MPEP §2131.

For all of the above reasons, Applicants respectfully request withdrawal of the rejections under 35 USC §102.

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Rejections under 35 USC §103

Independent claim 10 and its dependent claims 11-18 and 20 were rejected under 35 USC §103(a) as being unpatentable over Sarro, and independent claim 10 and its dependent claims 11-13 and 17-19 were rejected under 35 USC §103(a) as being unpatentable over Norton.

Under the first §103 rejection, the Examiner explained that "Sarro teaches all of the claimed limitations as defined [under the §102 rejection of claims 1-4 and 6-9] except for having at least two braking devices." However, this basis for rejecting claims 10-18 and 20 does not take into account other limitations found in claim 10 but not in claim 1, such as "a first end of the sensing level is movable in upward and downward directions while contacting the seat of the wheelchair." As such, a proper basis for rejecting claims 10-18 and 20 under §103 on the basis of Sarro has not been established, and Applicants respectfully request reconsideration and withdrawal of this rejection.

Under the second §103 rejection, the Examiner explained that "Norton et al. teaches all of the claimed limitations as defined [under the §102 rejection of claims 1-5, 7 and 9] except for having at least two braking devices." However, Norton does not disclose or suggest an interconnecting means that causes a biasing means to bias a first end of a sensing lever in a upward direction, as required by Applicants' claim 10. Instead, Norton's lever 52 is biased entirely by a biasing means 58 that is completely

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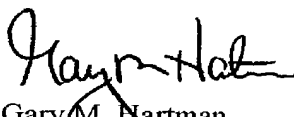
separate from the biasing means 26 that biases the braking means 24 into engagement with the wheelchair wheel 18. As such, Applicants also respectfully request reconsideration and withdrawal of the second rejection under §103.

Closing

In view of the above, Applicants believe that all rejections to their claims have been overcome, and that the claims define patentable novelty over all the references, alone or in combination, of record. It is therefore respectfully requested that this patent application be given favorable reconsideration.

Should the Examiner have any questions with respect to any matter now of record, Applicants' representative may be reached at (219) 462-4999.

Respectfully submitted,

By 
Gary M. Hartman
Reg. No. 33,898

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Hartman & Hartman, P.C.
Valparaiso, Indiana 46383
TEL.: (219) 462-4999
FAX: (219) 464-1166